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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,113	12/10/2003	Michael Krieger	32405-199591	4513
51715	7590	06/26/2006	EXAMINER	
VECTOR PRODUCTS, INC.			NEGRON, ISMAEL	
ROBERT POWELL			ART UNIT	
P.O. BOX 34385			PAPER NUMBER	
c/o VENABLE LLP			2875	
WASHINGTON, DC 20043-9998			DATE MAILED: 06/26/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/731,113	Applicant(s) KRIEGER, MICHAEL	
	Examiner Ismael Negron	Art Unit 2875	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 June 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: 2. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☒ Other: See attached Detailed Action.

DETAILED ACTION

Response to Amendment

1. Applicant's after final amendment filed on June 8, 2006 has not been entered.

Response to Arguments

2. Applicant's arguments filed June 8, 2006 have been fully considered but they are not persuasive.

3. Regarding the Examiner's rejection of Claim 14 under 35 U.S.C. 35 U.S.C. 103(a) as being unpatentable over WERNER (U.S. Pat. 2,628,339), the applicant argues that the cited reference fails to disclose all the features of the claimed invention, specifically the second housing containing the AC-to-DC converter, such second housing being substantially enclosed by the first housing.

4. In response to applicant's arguments that WERNER (U.S. Pat. 2,628,339) failed to disclose individually, or suggest in combination, the second housing containing the AC-to-DC converter, such second housing being substantially enclosed by the first housing, the applicant is once again advised that it has been held by the courts that forming in one piece a structure which has formerly been formed in two, or more pieces, involves only routine skill in the art. *In re Larson*, 144 USPQ 347, 349 (CCPA 1965). As detailed in previous Section 9, forming the AC-to-DC converter second and third housings into a single housing would have flown naturally to one of ordinary skill in the

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art to reduce costs and simplify the assembly of the patented illumination device of WERNER.

5. Regarding the Examiner's rejection of Claim 25 under 35 U.S.C. 35 U.S.C. 102(b) as anticipated by WERNER (U.S. Pat. 2,628,339), the applicant argues that the cited reference fails to disclose all the features of the claimed invention, specifically the second housing containing the AC-to-DC converter, such second housing being substantially enclosed by the first housing.

6. In response to applicant's arguments that WERNER (U.S. Pat. 2,628,339) failed to disclose individually, or suggest in combination, the second housing containing the AC-to-DC adapter, such second housing being substantially enclosed by the first housing, the applicant is respectfully advised that while the claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, this is not the mode of claim interpretation to be applied during examination. During examination, the claims must be interpreted as broadly as their terms reasonably allow. *In re American Academy of Science Tech Center*, 70 USPQ2d 1827 (Fed. Cir. May 13, 2004).

In this case, it is noted that the language of Claim 25 merely recites the converter circuitry, not the whole of the AC-to-DC adapter, to be contained within the second housing, such second housing being substantially enclosed by the first housing. The AC-to-DC adapter is not required by the language of the claims to be contained by the second housing; in fact, it is the AC-to-DC adapter which includes such second housing.

WERNER, as detailed in previous Section 5, clearly discloses a flashlight including a first housing (combination of elements 11, 14 and 75), such first housing enclosing an AC-to-DC adapter formed by transformer 80 and converter circuitry 81 (as admitted by the applicant), such transformer and rectifier circuitry being contained in separate enclosures (as seen in Figure 1). The converter circuit housing (i.e. the second housing) is substantially enclosed by the first housing. While it is true that part of the AC-to-DC adapter (i.e. the transformer 80) is not contained by the second housing, Claim 25 does not requires it to be (as opposed to Claim 14 which defines the complete AC-to-DC converter as contained within the second housing).

7. Regarding the Examiner's rejection of claims 16-22, the applicant present no arguments, except stating that such claims depend directly or indirectly from independent Claim 14, and would be allowable when/if the independent claim is allowed.

8. Regarding the Examiner's rejection of claims 27-36, the applicant present no arguments, except stating that such claims depend directly or indirectly from independent Claim 25, and would be allowable when/if the independent claim is allowed.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ismael Negron whose telephone number is (571) 272-

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2376. The examiner can normally be reached on Monday-Friday from 9:00 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea, can be reached on (571) 272-2378. The facsimile machine number for the Art Group is (571) 273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications maybe obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, go to <http://pair-direct.uspto.gov>. Should you have questions on access to Private PAIR system, contact the Electronic Business Center (EBC) toll-free at 866-217-9197.


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